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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/749,338	12/27/2000	Thomas J. Bingel	061607-1410	5398

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EXAMINER	
TRAN, QUOC DUC	

ART UNIT	PAPER NUMBER
2643	

DATE MAILED: 01/05/2005

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/749,338	BINGEL ET AL.	
	Examiner	Art Unit	
	Quoc D Tran	2643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 December 2000*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *27 December 2000* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *2*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-24 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-26 of U.S. Patent No. 6,771,740. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-24 of instant application is similar in scope to claims 1-26 of the US Patent No. 6,771,740 with obvious wording variations. For Example:

Regarding claims 1-24, the claims of US Patent No. 6,6771,740 claimed for a method and system for communicating a signal in a communication system, comprising: a transceiver; and a controllable line selection unit, said controllable line selection unit disposed between said transceiver and a plurality of communication connections, said controllable line selection unit further comprising: a transmit line selector coupled to a transmitter residing in said transceiver; a receive line selector coupled to a receiver residing in said transceiver; and a controller, said controller coupled to said transmit line selector and to said receive line selector, and generating a control signal such that said transmit line selector selectively couples said selected

communication connection to said transmitter, and such that said receive line selector selectively couples said selected communication connection to said receiver, wherein said controllable line selection unit selectively couples at least one communication connection of said plurality of communication connections to said transceiver such that the selected communication connection is isolated from the other ones of said plurality of communication connections so that an at least one leakage signal cannot be meaningfully detected on said selected communication connection, wherein said transmit line selector is selectively coupled to a first communication connection of said plurality of communication connections so that said transmitter communicates over said first communication connection; wherein said receive line selector is selectively coupled to a second communication connection of said plurality of communication connections so that said receiver communicates over said second communication connection: wherein said controller detects transitions from at least a first predefined channel to at least a second predefined channel; wherein said controller generates said control signal such that said transmit line selector selectively couples a third selected communication connection of said plurality of communication connections to said transmitter; and wherein said controller generates said control signal such that said receive line selector selectively couples a fourth selected communication connection of said plurality of communication connections to said receiver.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an

international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 5-6 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Humphrey (6,449,261).

Consider claim 5, Humphrey teaches a system which blocks leakage signals in a communication system (col. 2 lines 46-50) comprising: a local communication device configured to transmit and receive a plurality of signals with a plurality of remote communication devices, said local communication device coupled to said plurality of remote communication devices by a plurality of communication connections, each of said plurality of communication connections associated with one of said plurality of remote communication devices, respectively (see Fig. 1; col. 3 line 60 – col. 4 line 3); and a filter coupled to a first communication connection of said plurality of communication connections and said local communication device, and configured to prevent at least one leakage signal from propagating from said first communication connection to a second communication connection of said plurality of communication connections (col. 2 lines 46-50; col. 6 lines 21-31).

Consider claim 6, Humphrey teaches wherein said local communication device time multiplexes each one of said plurality of signals onto a single channel (col. 4 lines 47-56).

Consider claim 8, Humphrey teaches wherein at least one of said plurality of communication connections is a digital subscriber loop (col. 3 lines 50-59).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Humphrey (6,449,261) in view of Yrjola et al (5,521,561).

Consider claim 7, Humphrey did not suggest wherein said local communication device frequency multiplexes each one of said plurality of signals onto one of a plurality of channels. However, Yrjola et al suggested such (col. 1 lines 22-33). Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to incorporate the teaching of Yrjola et al into view of Humphrey in order to accommodate different techniques.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231
Facsimile responses should be faxed to:
(703) 872-9306
Hand-delivered responses should be brought to:
Crystal Park II, 2121 Crystal Drive
Arlington. VA., Sixth Floor (Receptionist)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Quoc Tran** whose telephone number is **(703) 306-5643**. The examiner can normally be reached on Monday-Thursday from 8:00 to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Curtis Kuntz**, can be reached on **(703) 305-4708**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Technology Center 2600** whose telephone number is **(703) 306-0377**.

AU 2643
December 15, 2004

QUOC TRAN
PRIMARY EXAMINER